

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:07-CR-343-BO-1

NO. 5:17-CV-269-BO

MOSES LIRAN DAVIS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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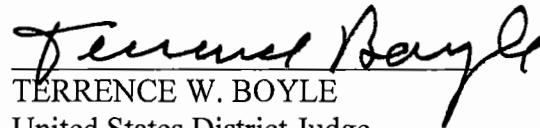
ORDER

Petitioner Moses Liran Davis (“petitioner”), a federal inmate, filed this petition for writ of habeas corpus *pro se* pursuant to 28 U.S.C. § 2255, challenging his sentence pursuant to the United States Supreme Court’s decision in Johnson v. United States, 135 S. Ct. 2551 (2015). Respondent the United States of America (“respondent”) subsequently filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). The matter now is before the court *sua sponte* to address some preliminary issues necessary to adjudicate the pending dispositive motion.

Petitioner, in his § 2255 petition, argues, *inter alia*, that his sentencing enhancement pursuant to 21 U.S.C. § 851 is improper because the offenses used to enhance his sentence were part of a consolidated judgment, which petitioner contends constitutes a single sentence. Respondent did not address this claim in its motion to dismiss. Accordingly, the court directs respondent to file a reply

addressing petitioner's claim regarding the consolidated judgment. Respondent must file its reply within 14 days of this court's order. Petitioner thereafter has seven days to file a sur-reply.

SO ORDERED, this the 9 day of November, 2017.


TERRENCE W. BOYLE
United States District Judge